IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.4453 of 2006

Shri Balkrishna Shivaji Mali — Petitioner

Vs.

Tahsildar, Kavathemahankal & ors. — Respondents

With

Writ Petition No.4541 of 2006

Shri Vishnu Appa Shirke — Petitioner

Vs.

Tahsildar, Kavathemahankal & ors. — Respondents

Mr.R.V.More for petitioners.

Mr.R.M.Patne, AGP for Resp.No.1.

CORAM: B.H.MARLAPALLE,J.

July 18, 2006.

P.C.

. Heard Mr.More, the learned counsel for the petitioners. In the first petition the petitioner was elected as the Upsarpanch and in the second petition the petitioner was elected as Sarpanch of Village Panchayat Morgaon, Taluka Kavathemahankal in

Sangli District sometimes in May 2003. The said village panchayat had a total membership of seven and No Confidence Motion came to be filed with the Tahsildar on 16/2/2006. On 17/2/2006 the Tahsildar issued a notice calling for a meeting to dismiss the motion of No Confidence move against both the petitioners. The meeting was held on 21/2/2006 and the Upsarpanch remained absent in the said meeting whereas the Sarpanch was present. Thus six of the elected members remained present and the seventh member remained absent. The no confidence motion was put to vote and five of the members present supported the motion whereas the sole member i.e. the Sarpanch opposed the motion and the motion came to be passed with 5:1.

. The petitioners then approached the Collector by way of an appeal under Section 35(3B) of the Bombay Village Panchayats Act, 1958 and the appeal was dismissed by the Addl. Collector. The petitioners then filed the second appeal before the Divisional Commissioner and the appeals have been dismissed by the Divisional Commissioner on 16/6/2006. Hence these petitions.

. Both the appellate authorities below on perusal of the record and proceedings observed that the statutory procedures were duly followed in calling for the meeting held on 21/2/2006 and five elected members had supported the no confidence motion and thereby the motion was upheld by 2/3rd majority. The no confidence motion having been passed with such a majority was not required to be interfered in the appeal proceedings, are the concurrent findings recorded by both the authorities below. The Addl. Collector referred to a decision of this Court in Writ Petition No.2931 of 1998 wherein this Court (Division Bench) held that the majority decision must be respected in passing the no confidence motion and the reasons for such a motion were not required to be considered. In view of this settled legal position the view taken by both the authorities cannot be faulted with.

. Mr.More, the learned counsel appearing for the petitioners also submitted that the petitioners had made an application for secret ballot and the same was not considered by the Tahsildar. Admittedly the Rules do not provide for the secret ballot in a meeting called for discussion of no confidence motion

and, therefore, when such a right is not created in favour of the petitioners by the concerned Rules, there was no error committed by the Tahsildar in not considering such a request.

. The petitions are rejected summarily.

(B.H.MARLAPALLE,J.)